

unit of increased emissions of the pollutant(s) and its (their) precursors for which the finding(s) under paragraph (c) of this section is (are) made. If the deficiency prompting the finding under paragraph (c) of this section is not specific to one or more particular pollutants and their precursors, the 2-to-1 ratio shall apply to all pollutants (and their precursors) for which an affected area within the State listed in paragraph (e)(1)(i) of this section is required to meet the offset requirements of 42 U.S.C. 7503.

(ii) Notwithstanding paragraph (e)(1)(i) of this section, when a finding is made with respect to a requirement for the criteria pollutant ozone or when the finding is not pollutant-specific, the State shall not apply the emissions offset requirements at a ratio of at least 2-to-1 for emission reductions to increased emissions for nitrogen oxides where, under 42 U.S.C. 7511a(f), the Administrator has approved an NO_x exemption for the affected area from the Act's new source review requirements under 42 U.S.C. 7501-7515 for NO_x or where the affected area is not otherwise subject to the Act's new source review requirements for emission offsets under 42 U.S.C. 7501-7515 for NO_x.

(iii) Notwithstanding paragraph (e)(1)(i) of this section, when a finding under paragraph (c) of this section is made with respect to PM-10, or the finding is not pollutant-specific, the State shall not apply the emissions offset requirements, at a ratio of at least 2-to-1 for emission reductions to increased emissions to PM-10 precursors if the Administrator has determined under 42 U.S.C. 7513a(e) that major stationary sources of PM-10 precursors do not contribute significantly to PM-10 levels which exceed the NAAQS in the affected area.

(iv) For purposes of applying the emissions offset requirement set forth in 42 U.S.C. 7503, at the 2-to-1 ratio required under this section, the State shall comply with the provisions of a State-adopted new source review (NSR) program that EPA has approved under 42 U.S.C. 7410(k)(3) as meeting the nonattainment area NSR requirements of 42 U.S.C. 7501-7515, as amended by the 1990 Amendments, or, if no plan has

been so approved, the State shall comply directly with the nonattainment area NSR requirements specified in 42 U.S.C. 7501-7515, as amended by the 1990 Amendments, or cease issuing permits to construct and operate major new or modified sources as defined in those requirements. For purposes of applying the offset requirement under 42 U.S.C. 7503 where EPA has not fully approved a State's NSR program as meeting the requirements of part D, the specifications of those provisions shall supersede any State requirement that is less stringent or inconsistent.

(v) For purposes of applying the emissions offset requirement set forth in 42 U.S.C. 7503, any permit required pursuant to 42 U.S.C. 7503 and issued on or after the date the offset sanction applies under paragraph (d) of this section shall be subject to the enhanced 2-to-1 ratio under paragraph (e)(1)(i) of this section.

(2) *Highway funding sanction.* The highway sanction shall apply, as provided in 42 U.S.C. 7509(b)(1), in the timeframe prescribed under paragraph (d) of this section on those affected areas subject under paragraph (d) of this section to the highway sanction, but shall apply only to those portions of affected areas that are designated nonattainment under 40 CFR part 81.

[59 FR 39859, Aug. 4, 1994]

§ 52.32 Sanctions following findings of SIP inadequacy.

For purposes of the SIP revisions required by § 51.120, EPA may make a finding under section 179(a) (1)-(4) of the Clean Air Act, 42 U.S.C. 7509(a) (1)-(4), starting the sanctions process set forth in section 179(a) of the Clean Air Act. Any such finding will be deemed a finding under § 52.31(c) and sanctions will be imposed in accordance with the order of sanctions and the terms for such sanctions established in § 52.31.

[60 FR 4737, Jan. 24, 1995]

§ 52.33 Compliance certifications.

(a) For the purpose of submitting compliance certifications, nothing in this part or in a plan promulgated by the Administrator shall preclude the use, including the exclusive use, of any

credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed.

(b) For all federal implementation plans, paragraph (a) of this section is incorporated into the plan.

[62 FR 8328, Feb. 24, 1997]

§ 52.34 Action on petitions submitted under section 126 relating to emissions of nitrogen oxides.

(a) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Administrator* means the Administrator of the United States Environmental Protection Agency or the Administrator's duly authorized representative.

(2) *Large Electric Generating Units (large EGUs)* means:

(i) For units that commenced operation before January 1, 1997, a unit serving during 1995 or 1996 a generator that had a nameplate capacity greater than 25 MWe and produced electricity for sale under a firm contract to the electric grid.

(ii) For units that commenced operation on or after January 1, 1997 and before January 1, 1999, a unit serving at any time during 1997 or 1998 a generator that had a nameplate capacity greater than 25 MWe and produced electricity for sale under a firm contract to the electric grid.

(iii) For units that commence operation on or after January 1, 1999, a unit serving at any time a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale.

(3) *Large Non-Electric Generating Units (large non-EGUs)* means:

(i) For units that commenced operation before January 1, 1997, a unit that has a maximum design heat input greater than 250 mmBtu/hr and that did not serve during 1995 or 1996 a generator producing electricity for sale under a firm contract to the electric grid.

(ii) For units that commenced operation on or after January 1, 1997 and before January 1, 1999, a unit that has a maximum design heat input greater

than 250 mmBtu/hr and that did not serve at any time during 1997 or 1998 a generator producing electricity for sale under a firm contract to the electric grid.

(iii) For units that commence operation on or after January 1, 1999, a unit with a maximum design heat input greater than 250 mmBtu/hr that:

(A) At no time serves a generator producing electricity for sale; or

(B) At any time serves a generator producing electricity for sale, if any such generator has a nameplate capacity of 25 MWe or less and has the potential to use 50 percent or less of the potential electrical output capacity of the unit.

(4) *New sources* means new and modified sources.

(5) *NO_x* means oxides of nitrogen.

(6) *OTAG* means the Ozone Transport Assessment Group (active 1995–1997), a national work group that addressed the problem of ground-level ozone and the long-range transport of air pollution across the Eastern United States. The OTAG was a partnership between EPA, the Environmental Council of the States, and various industry and environmental groups.

(7) *Ozone season* means the period of time beginning May 1 of a year and ending on September 30 of the same year, inclusive.

(8) *Potential electrical output capacity* means, with regard to a unit, 33 percent of the maximum design heat input of the unit.

(9) *Unit* means a fossil-fuel fired stationary boiler, combustion turbine, or combined cycle system.

(b) *Purpose and applicability.* Paragraphs (c), (e)(1) and (e)(2), (g), and (h)(1) and (h)(2) of this section set forth the Administrator's findings with respect to the 1-hour national ambient air quality standard (NAAQS) for ozone that certain new and existing sources of emissions of nitrogen oxides ("NO_x") in certain States emit or would emit NO_x in violation of the prohibition in section 110(a)(2)(D)(i) of the Clean Air Act (CAA) on emissions in amounts that contribute significantly to non-attainment in certain States that submitted petitions in 1997–1998 addressing such NO_x emissions under section 126 of the CAA. Paragraphs (d), (e)(3) and